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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,359	08/15/2003	John W. Countz	14598.01	1626

7590 02/22/2005

Chief Intellectual Property Counsel
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EXAMINER

TAWFIK, SAMEH

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/642,359

Applicant(s)

COUNTZ, JOHN W.

Examiner

Sameh H. Tawfik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-9 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Atkins et al. (4,457,122).

Atkins discloses a positive-pressure packaging system comprising a platen (Figs. 2 and 3; via base 12 and heated lower platen 16) for receiving a product (P) and a packaging material (B) having an open end (Fig. 1); a dome (Fig. 1; via 10 and heated upper platen 14) moveable to a first position relative to the platen wherein the product may be placed on the platen, and a second position relative to the platen wherein the product is substantially enclosed inside of a pressure chamber defined by the platen and the dome (Fig. 4); a seal assembly (Figs. 3 and 4; via sealing means 22) for operatively coupling the dome to the platen in the second position and for straitening the open end (Fig. 4), wherein the seal assembly is adapted to allow expulsion of fluids from the pressure chamber; and an pressure source (Fig. 4; via vacuum pressure ATMOS) operable coupled with the dome for increasing pressure within the dome so that the packaging material is compressed against the product (Figs. 3 and 4).

Regarding claim 2: further comprising a sealing device (via 22) on at least one of the platen (10) and the dome configured to seal the packaging material after the packaging material has been compressed (Figs. 4).

Regarding claim 3: wherein the sealing device includes a heating element configured to provide the package with a hermetic seal via heating platens 14 and 16.

Regarding claim 4: further comprising a gas inlet for injecting a gas into the packaging material to purge an interior of the packaging material before compressing the packaging material (Fig. 4; via ATMOS).

Regarding claim 6: wherein the pressure source includes an air compressor operably coupled with the dome to provided pressurized air to the pressure chamber (column 3, lines 62-68 and column 4, lines 1-6).

Regarding claim 7: wherein the pressure source includes an expandable bladder configured to expand and exert pressure against the packaging material (via Diaphragm 18).

Regarding claim 8: wherein the seal assembly is a labyrinth structure that allows passage of fluids and obstructs passage of particulates (Figs. 4; via 22).

Regarding claim 9: wherein the packaging material includes multiple layers of a webbing (Figs. 1-3; via bag opening).

Regarding claim 18: a pressure source operably coupled with the dome for increasing pressure within the pressure chamber relative to the ambient pressure so that the open package is compressed against the product, wherein the seal assembly allows expulsion of fluids from the package through the open end thereof and inhibits expulsion of a particulate (Figs. 3 and 4; via expansion of diaphragm 18) and a sealing device (22) on at least one of the platen and the dome configured to seal the package after the package has been compressed.

Regarding claim 19: wherein the seal assembly includes a first labyrinth structure (Fig. 3; via 22 has groove and protrusion portions) provided on the flat surface of the platen, and a second

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labyrinth structure (via 26) provided on the pressure dome (via on 10), the first and second labyrinth structures being engageable so as to form a closed seal that allows the passage of fluids under increased pressure (Fig. 4).

Regarding claim 20: wherein the sealing device includes a first heat-sealing component on the platen, and a second heat-sealing component on the pressure dome and positioned to substantially abut against the first heat-sealing component when the pressure dome is in the closed position (Fig. 4; via 26 or the platens 14 and 16).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Atkins et al. (4,457,122).

Atkins does not disclose that the gas is selected from the group consisting of Ar, Co₂, or CO. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Atkins's packaging system by inserting gas inside the bag selected from Ar, Co₂, or CO, for the purpose of extending and increasing the packaging shelf life of the product. Alternatively, the examiner takes an official notice that the mentioned using of gas Ar, Co₂, or CO to be inserted inside the packaging bags is old, well known, and available in the art.

Response to Arguments

Applicant's arguments filed 01/13/2005 have been fully considered but they are not persuasive.

Applicant argues in page 5 of the arguments that Atkins does not disclose, teach or suggest "a pressure source operably coupled with the dome for increasing pressure within the dome" as recited in independent claims 1 and 18. The examiner believes that Atkins clearly discloses "a pressure source operably coupled with the dome for increasing pressure within the dome"; Fig. 3; via by vacuuming the air out from dome 14 through conduits 30 and then releasing the vacuum means and allowing the atmospheric air to get in as shown in Fig. 4; that consider as pressure source because the atmospheric air will strongly get inside the dome 14 through conduits 30, which is source of pressure applied inside dome 14.

Applicant further argues in pages 5 and 6 that Atkins teaches generating a negative vacuum pressure through conduits 30, but does not teach "increasing pressure within the dome so that the packaging material is compressed against the product" as required by claim 1. The examiner agrees with the applicant that Atkins teaches generating a negative vacuum pressure through conduits 30, but also believes that by releasing the negative vacuum pressure off and allowing the atmospheric air to blow inside the dome 14, that will be like increasing the pressure inside the dome 14, as a result will compress against the product as shown in Fig. 4.

Applicant argues by the end of page 6 that the 103 rejection to claim 5 is traversed because Atkins does not anticipate the independent claim 1. The examiner as set forth believes that Atkins discloses the limitations of claim 1, therefore the 103 rejection to claim 5 is proper.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470. The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sameh H. Tawfik
Patent Examiner
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A handwritten signature in black ink, consisting of a stylized 'S' followed by a long horizontal stroke and a diagonal line.

ST.